

Honorable John H. Chun

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KURT BENSHOOF,  
A.R.W. By and Through His Father,  
KURT A. BENSHOOF,

Plaintiffs,

v.

MARSHALL FERGUSON, *et al.*,

Defendants.

No. 2:24-cv-00808-JHC

PLAINTIFFS' MOTION FOR  
TEMPORARY RESTRAINING ORDER

NOTE ON MOTION CALENDAR:  
June 24, 2024

**ORAL ARGUMENT REQUESTED**

**I. RELIEF REQUESTED**

Under threat of grave, immediate, and ongoing irreparable harm Plaintiff Kurt Benshoof ("Benshoof") moves the Court to enjoin Respondents from continuing to render criminal assistance, either by their acts or failures to act, to the ongoing kidnapping and child abuse of Benshoof's minor son, A.R.W., to enjoin Respondents from ongoing retaliatory threats to unlawfully imprison Benshoof for exercising his First Amendment rights, and to enjoin Respondents from conspiring to deny Plaintiffs the privilege of habeas corpus in violation of the privileges clause of the

Fourteenth Amendment, U.S. Const. § 1, and Wash. Const. art I. § 13. Plaintiffs' motion also notices as Respondents kidnapping perpetrators Jessica Rae Owen and Magalie Lerman, as well as City of Seattle for the ongoing malicious prosecutions of Benshoof which are rendering criminal assistance to the kidnappers.

Because of the emergency nature requiring injunctive relief, Benshoof requests a full adversary hearing required for a preliminary injunction, while moving under the expedited noting schedule of a TRO.

## II. INTRODUCTION

Benshoof and the mother of A.R.W., Respondent Jessica Owen, were never parties to "domestic relations" by which a "child custody" proceeding could have ever occurred. This motion "in no way seeks a divorce, alimony or child custody decree." *Ankenbrandt v. Richards*, 504 U.S. 689, 690 (1992)

Defendants cannot claim the Court lacks jurisdiction by claiming that Benshoof is challenging a "state's child custody determination." *Lehman v. Lycoming County Children's Servs. Agency*, 458 U.S. 502, 511-512 (1982) *Lehman* did not proscribe jurisdictional inquiry to consider the absence of municipal or state court jurisdiction. *Lehman* quoted Justice Black, speaking for the unanimous Court in *Jones v. Cunningham*, 371 U. S. 236, 243 (1963), who observed that the federal writ of habeas corpus "is not now and never has been a static narrow, formalistic remedy."<sup>1</sup>

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<sup>1</sup> *Lehman v. Lycoming Cty. Ch. Svcs. Agcy.*, 458 U.S. 502, [Footnote 19] (1982)

Justice Black also stated that “[t]he sparse legislative history of the [Habeas Corpus Act] gave “no indication whatever that the bill intended to change the general nature of the classical habeas jurisdiction.”<sup>2</sup> ....Nor, since that time, has this Court ever held that the congressional purpose originally underlying the statute barred use of the federal writ to free children from unlawful state custody.”<sup>3</sup>

This motion does not seek *review* of King County Superior Court or Seattle Municipal Court proceedings; rather, the petition seeks a ***jurisdictional inquiry*** in Equity to answer federal questions regarding the violations of Plaintiffs’ rights under color of law. 28 U.S.C. § 1331 commands district court inquiry (*Axon v. FTC*, 598 U.S. 175 (2023) (J. GORSUCH concurring at 34-35), and 42 U.S.C. § 1983 is an express exception to 28 U.S.C. § 2283. *Mitchum v. Foster*, 407 U.S. 225, 226 (1972)

All Respondents were notified by email or telephone on or before 100pm June 24, 2024, of the pending motion, in order to afford Respondents the opportunity to respond in a full adversarial hearing.

### III. CO-CONSPIRATORS

1. Respondent Jessica R. Owen (“Owen”) is the mother of A.R.W. and is currently kidnapping A.R.W. under color of law.

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<sup>2</sup> Bator, Finality in Criminal Law and Federal Habeas Corpus for State Prisoners, 76 Harv.L.Rev. 441, 476-477 (1963) [Footnote 2/3]

<sup>3</sup> *Lehman v. Lycoming Cty. Ch. Svcs. Agcy.*, 458 U.S. 502, 518-19 (1982)

1           2.       Defendant Marshall Ferguson (“Ferguson”) works as a King County  
2 Superior Court judge. Ferguson recently suspended the writ of habeas corpus under  
3 the fraudulent and void *ab initio* Order Restricting Abusive Litigation by Kurt  
4 Benshoof (“ORAL”). Ferguson did so in violation of Wash. Const. art. I § 13 and U.S.  
5 Const. § 1 to render criminal assistance to Owen’s kidnapping of A.R.W.  
6

7           3.       Defendant Blair Russ (“Russ”) is an attorney representing Owen who  
8 conspired with Ferguson to render criminal assistance to Owen’s kidnapping of  
9 A.R.W.  
10

11           4.       Defendant Jessica Skelton (“Skelton”) represents Seattle Public Schools  
12 general counsel Gregory Narver in state and federal court. Under the ORAL ruse,  
13 Skelton is rendering criminal assistance to Gregory Narver rendering criminal  
14 assistance to Owen’s kidnapping of A.R.W.

15           5.       Defendants Michael Tracy (“Tracy”) and Sarah Turner (“Turner”)  
16 represent Owen’s former family law attorney, Nathan Cliber, in state and federal  
17 court. Under the ORAL ruse, Tracy and Turner are rendering criminal assistance to  
18 Nathan Cliber’s rendering criminal assistance to Owen’s kidnapping of A.R.W.  
19

20           6.       Defendant Jamal Whitehead (“Whitehead”) directed the U.S. District  
21 Court Office of the Clerk to deny Benshoof the issuance of summons to Owen’s  
22 prostitute girlfriend, Magalie E. Lerman, who kidnapped A.R.W. and stole Benshoof’s  
23 car. Whitehead, in his role as a federal judge, defied 28 U.S.C. § 1657(a), has refused  
24

1 to adjudicate Benshoof's motions for temporary restraining orders, noted for March  
2 5, 2024, and March 25, 2024.

3 7. Officials working for Respondent CITY OF SEATTLE ("City") are  
4 maliciously prosecuting Benshoof for allegedly violating void *ab initio* restraining  
5 orders, thereby rendering criminal assistance to Owen's kidnapping of A.R.W.  
6

#### 7 IV. SWORN STATEMENT OF FACTS

8 Benshoof avers the following upon his firsthand knowledge, information and  
9 belief, statements to which he is prepared to testify under penalty of perjury.  
10

##### 11 A. Background of Kidnapping

12 8. Respondent Jessica Owen ("Owen") has gotten away with lying to public  
13 officials, including felony perjury, for the last ***nine years***. Owen is the mother of  
14 A.R.W. (Ex. #0078 ¶¶21, 30-34)

15 9. Owen and her prostitute girlfriend, Magalie Lerman ("Lerman")  
16 conspired to kidnap A.R.W., steal Benshoof's car (Ex. #0078 ¶24), and extort Benshoof  
17 of thousands of dollars (Ex. #0078 ¶¶37-38). (Dkt. #1 ¶¶16-28)  
18

19 10. Family law attorney Nathan Cliber ("Cliber") suborned the perjury of  
20 Owen to perpetuate the kidnapping of A.R.W. under color of law of a barratrous and  
21 fraudulent petition to decide parentage in King County Superior Court ("KCSC")  
22 Case No. 21-5-00680-6 SEA. (Dkt. #1 ¶¶19-28)  
23  
24  
25

1 11. To date, countless public officials and corrupt attorneys have rendered  
2 criminal assistance to the ongoing kidnapping of A.R.W., including Defendants. (Dkt.  
3 #1 ¶¶29-188)

4  
5 12. Respondents have all been provided with irrefutable proof of the  
6 following:

7 (1) Cliber suborned the perjury of Owen;

8 (2) Owen was collaterally estopped from claiming that Benshoof was not the  
9 presumed father of A.R.W., a requirement for a petition to decide parentage;

10 (3) Owen's own statements and exhibits precluded family court jurisdiction to  
11 adjudicate Owen's petition to decide parentage, pursuant to RCW  
12 26.26A.435(2);

13  
14 (4) In the absence of jurisdiction and absent a justiciable controversy, the family  
15 court orders granted by Judge David Keenan were void *ab initio*;

16 (5) CITY OF SEATTLE has been maliciously prosecuting Benshoof, derivative  
17 of the family court fraud;

18 (6) Owen and Russ did not, and could not, provide Ferguson with evidence  
19 required for statutory authority to grant an Order Restricting Abusive  
20 Litigation ("ORAL");

21 (7) the ORAL granted by Ferguson was void *ab initio*;

22 (8) Russ, Skelton, Tracy, and Turner used the fraudulent, void *ab initio* ORAL  
23 to protect themselves and their clients from criminal and civil liability.  
24

1           13.     Whitehead refused to adjudicate Benshoof's Fifth and Sixth Temporary  
 2 Restraining Orders ("TRO"), which exhaustively detailed the foregoing fraud,  
 3 perjury, kidnapping, and retaliations against Benshoof for seeking redress of  
 4 Plaintiffs' grievances. (WAWD No. 2:23-cv-1392-JNW, Dkt. #129; #158)

5  
 6 **B. KCSC No. 22-2-15958-8 SEA**

7           **1) ORAL**

8           14.     Ferguson granted an Order Restricting Abusive Litigation by Kurt  
 9 Benshoof ("ORAL" Ex. ##0380-0388) without statutory authority. (Dkt. #1 ¶¶75-97)

10           15.     On January 27, 2023, Ferguson initiated *ex parte* communications with  
 11 opposing counsel, giving them legal advice to fraudulently move for the ORAL to  
 12 abridge Benshoof's First Amendment rights under color of law. (Ex. #0089-0150)

13  
 14           **2) Writs of Prohibition re: Seattle Municipal Court**

15           16.     Under threat, duress, and coercion of the ORAL, Benshoof sought leave  
 16 from Ferguson to file petitions for writ of prohibition to arrest the malicious  
 17 prosecutions by CITY OF SEATTLE in case nos. 669329 (KCSC No. 22-2-15958-8  
 18 SEA, Document 219) and 671384 (*Id.*, Document 221). (Ex. #0089-0150)

19           17.     July 6, 2022, A.R.W. ran away from Owen's home to return to Benshoof.  
 20 SPD forced A.R.W. to return to Owen's. (Ex. #0078 ¶39)

21           18.     In early August 2022, A.R.W. considered suicide because he didn't know  
 22 if he would be forced to stay at Owen's until he turned eighteen years old. (Ex. #0078  
 23 ¶40)

**SMC No. 669329**

19. On November 15, 2022, Benshoof discovered a letter from the City in his mailbox alleging he was charged with violating RCW 7.105.450. The letter stated a hearing was scheduled for November 16, 2022.

20. On November 16, 2022, at 230pm, Benshoof appeared by Special Appearance via WebEx before Judge Willie Gregory (“Gregory”).

21. Benshoof challenged personal jurisdiction, citing RCW 35.20.270(1). The City failed to provide evidence that the City had legally served Benshoof.

22. The City claimed that Benshoof had violated a King County Superior Court restraining order in case no. 21-5-00680-6 involving Benshoof’s minor son, A.R.W.

23. RCW 7.105.050(1)(a) states that a protection order violation allegation “must be transferred” to superior court when a “superior court has exercised jurisdiction over a proceeding involving the parties.”

24. RCW 7.105.050(1)(d) states that a protection order violation allegation “must be transferred” to superior court when a “victim... to the petition is under 18 years of age.” A.R.W. was an alleged victim and thirteen years old at the time.

25. Gregory stated “the court has jurisdiction” and set bail at \$10,000 and issued a restraining order against Benshoof.

26. On June 21, 2023, Benshoof appeared by WebEx before Judge Jerome Roache (“Roache”). City prosecutor Katrina Outland (“Outland”) motion to issue a



1 \$100,000 warrant for Benshoof's arrest. Roache issued warrant #990437083 in the  
 2 amount of \$50,000 for Benshoof's "failure to appear." The worksheet stated that  
 3 Benshoof appeared.  
 4

5 ***SMC No. 671384***

6 27. Between September 2022 and January 23, 2023, Benshoof and A.R.W.  
 7 used the Discord messaging app to secretly communicate with each other. Benshoof  
 8 sent his son funny memes to keep A.R.W. from killing himself. (Ex. #0088)

9 28. On January 23, 2023, A.R.W. again ran away from Owen's house to  
 10 return to Benshoof. (Ex. #0079 ¶42)

11 29. When the police arrived at Benshoof's home, the police refused to look  
 12 at Benshoof's evidence of Owen's perjury, fraud, threats, kidnapping, extortion, and  
 13 theft. Police again forced A.R.W. to return to Owen's. (Ex. #0078 ¶¶43-44)

14 30. On March 14, 2023, the City filed eighty-nine (89) charges of "domestic  
 15 violence" because Benshoof texted with A.R.W. Defendant Prosecutor Katrina  
 16 Outland ("Outland") submitted *some* of the texts in the City's complaint.  
 17

18 31. On March 14, 2021, Judge Faye Chess issued \$250,000 warrant  
 19 #990435958.  
 20

21 32. Outland did *not* submit as evidence texts from A.R.W. to Benshoof which  
 22 evidenced that A.R.W.: (1) wants to escape Owen's house to be with Benshoof; (2)  
 23 believes Owen is suffering from mental illness; (3) heard Owen and Lerman state  
 24 their intent to extort Benshoof for \$100,000; and (4) wants Benshoof to continue and  
 25

1 expedite litigation against Owen and Lerman to facilitate A.R.W. returning home to  
 2 Benshoof. A.R.W. told his father, “Just keep hitting them.” (Ex. #0085).

3 33. On September 26, 2023, City attorneys were served with further proof  
 4 of A.R.W.’s statements, all of which confirm Benshoof’s sworn statements: the  
 5 affidavit of A.R.W. was signed before three adult witnesses on February 10, 2023.  
 6 (Ex. #0077-0079)  
 7

### 8 **3) Legal Challenges Unavailable**

9 34. Benshoof cannot bring motion before Seattle Municipal Court. Benshoof  
 10 tried repeatedly, and numerous Catch-22 barriers were erected: (1) Benshoof’s public  
 11 defender, Mr. Pirani, refused to file any motions raising constitutional, statutory, or  
 12 jurisdictional challenges; (2) Mr. Pirani refused to withdraw as counsel; (3) judges  
 13 refused to hear Benshoof’s *pro se* Marsden motions so long as Mr. Pirani remained  
 14 counsel of record; (4) judges refuse to hear Benshoof’s motion to dismiss **unless**  
 15 Benshoof first subjects himself to indefinite unlawful imprisonment  
 16

17 35. Russ filed an opposition to Benshoof seeking leave to file his petitions  
 18 for writ of prohibition.  
 19

20 36. Ferguson granted leave to file both petitions for writ of prohibition after  
 21 Ferguson “reviewed Mr. Benshoof’s application materials and Jessica Owen’s  
 22 response to Mr. Benshoof’s application.” (Ex. #0151)  
 23

### 24 **4) Habeas Petition**

25 37. On January 24, 2024, under threat, duress, and coercion of the ORAL

1 Benshoof sought Ferguson's leave to file a petition for writ of habeas corpus to end  
2 the unlawful imprisonment of Plaintiffs. (Ex. #0001-0083)

3 38. Under the void *ab initio* ORAL, Ferguson and Russ acted to deny  
4 Benshoof the privilege of *habeas corpus*. (Dkt. #1 ¶¶119-129)

5 39. Ferguson claimed that the *habeas* petition "demands that this Court  
6 investigate "whether family court had jurisdiction" in [KCSC No. 21-5-00680-6 SEA]  
7 and look into allegedly fraudulent proceedings in that case; and he claims that  
8 assorted constitutional violations occurred in those other proceedings. In other  
9 words, Mr. Benshoof clearly intends to use his proposed *habeas* petition as a  
10 substitute for appeal of those other proceedings. His petition is frivolous and without  
11 merit." (Ex. #0154)

12 40. Benshoof's *habeas* petition averred essentially the same set of facts  
13 detailed in Benshoof's prohibition petitions, yet Ferguson did not claim the  
14 prohibition petitions were "frivolous and without merit."

15 **5) Contempt Order**

16 41. Ferguson, Russ, Skelton, Tracy, and Turner have shown no remorse or  
17 accountability for their conspiracy to use the void *ab initio* ORAL to render criminal  
18 assistance to the kidnapping of A.R.W. (Ex. ##0389-0394)

19 42. At the Contempt Order hearing on February 29, 2024, Benshoof  
20 recounted that he caught Ferguson giving fraudulent *ex parte* legal advice to opposing  
21 counsel at the January 27, 2023, hearing.

1           **6) Mandamus**

2           43. On March 22, 2024, Benshoof filed petition for writ of mandamus to  
3 compel Seattle Public Schools general counsel Gregory Narver's compliance with  
4 RCW 28A.605.030, KCSC No. 24-2-06539-3 SEA. (Ex. #0156-0171)

5           44. Skelton motioned for the dismissal of Benshoof's mandamus by falsely  
6 claiming that Benshoof had violated the ORAL. (Dkt. #1 ¶¶157-168)

7           45. Skelton is knowingly and willfully acting to conceal the whereabouts of  
8 A.R.W. from Benshoof by rendering criminal assistance to Gregory Narver's  
9 violations of RCW 28A.605.030.

10           **C. WAWD No. 2:23-v-1392-JNW**

11           **1) Benshoof's Fifth TRO Motion**

12           46. On March 5, 2024, Benshoof sought injunctive relief against the  
13 immediate threats of unlawful imprisonment and abridgement of his right to petition  
14 for redress, perpetrated under the void *ab initio* ORAL. (WAWD No. 2:23-cv-1392-  
15 JNW, Dkt. #129)

16           47. Tracy and Turner opposed Benshoof's Fifth TRO, perpetuating the  
17 gaslighting, fraud, and subornation of perjury to claim that "the entire purpose of the  
18 ORAL is to protect them from [Benshoof's ongoing harassment and abuse of the  
19 judicial system..." (*Id.*, Dkt. #133, pg. 8 ¶2) Tracy and Turner could not, and did not,  
20 deny to that Cliber suborned Owen's perjury, nor did they deny that Ferguson  
21 granted the ORAL *ultra vires*.

48. To date, Whitehead has refused to adjudicate the motion. (WAWD No. 2:24-cv-00808-JHC, Dkt. #1 ¶¶177-180)

## **2) Benshoof's Sixth TRO Motion**

49. On March 25, 2024, Benshoof filed his Sixth Motion for Temporary Restraining Order ("TRO") to enjoin CITY OF SEATTLE, King County Judge David Keenan, Jessica Owen, and Magalie Lerman, from continuing to kidnap A.R.W. and maliciously prosecute Benshoof for Benshoof's attempts to stop the kidnapping of A.R.W. (WAWD No. 2:23-cv-1392-JNW, Dkt. #158)

50. Only the City filed opposition to Benshoof's Sixth TRO, and it was a *single paragraph* response to Benshoof's *forty-page* TRO. The City could not, and did not, deny that the City is proceeding without jurisdiction to maliciously prosecute Benshoof. (*Id.*, Dkt. #168) Benshoof replied, proving the City's one paragraph response "failed to argue any defense to Benshoof's motion." (*Id.*, Dkt. #169 pg. 1)

51. The Sixth TRO motion was noted for March 25, 2024. To date, Whitehead has refused to adjudicate Benshoof's Sixth TRO. (WAWD No. 2:24-cv-00808-JHC, Dkt. #1, ¶¶185-188)

## **V. ARGUMENT AND AUTHORITY**

### **A. Family Court *Ultra Vires* Acts**

#### **1) No Justiciable Issue**

52. A.R.W. was twelve years old when Owen filed her petition to decide parentage. "Domestic relations" between Benshoof and Owen never existed. Family

1 courts are delegated limited authority under RCW Title 26: *Domestic Relations*.  
2 Family court was absent jurisdiction. (Ex. #0008-0012)

3 53. Under RCW 26.26A.435(2), family court could not overcome Benshoof's  
4 presumption of fatherhood after A.R.W. turned four-years-old ***unless*** Benshoof (1)  
5 was not the genetic father of A.R.W.; (2) had never lived with A.R.W.; and (3) had  
6 never held A.R.W. out as his son. (Ex. #0011 ¶33)

7  
8 54. Owen's own statements denied family court jurisdiction to overcome  
9 Benshoof's presumption of fatherhood.

10 55. Bringing a false suit at law or in equity violates RCW 9.12, and an  
11 attorney may be disbarred from practicing law. Cliber and Owen brought a  
12 fraudulent parentage action to conceal the kidnapping of A.R.W., in violation of RCW  
13 9A.40.020 and 18 U.S.C. §§ 3; 4.

14  
15 **2) Perjury**

16 56. Owen's own inconsistent material statements of fact constituted perjury  
17 in violation of RCW 9A.72.020, a class B felony. (Ex. #0010 ¶29; #0011 ¶¶30-32)

18 57. Owen's perjury was foundational to her obtaining the TRO on  
19 September 28, 2021. (Ex. #0012 ¶35)

20  
21 58. Cliber suborned Owen's perjury to obtain the TRO. (Ex. #0062; #0069)

22 59. Under the exclusionary rule and the Fruits of the Poisonous Tree  
23 doctrine, evidence derived from evidence that is illegally obtained is inadmissible.

1           60. Owen's perjurious statements were presented by Cliber as evidence and  
2 considered by Judge Keenan as evidence, in violation of the exclusionary rule.

3  
4           **3) Owen Estopped**

5           61. RCW 26.26A.115(1) states that an "individual is presumed to be a  
6 parent of a child if: (b) The individual resided in the same household with the child  
7 for the first four years of the life of the child, including any period of temporary  
8 absence, and openly held out the child as the individual's child."

9           62. Owen's sworn statements set forth that Benshoof: (1) **is** the biological  
10 father of A.R.W. (Ex. #0022), yet was **not** the biological father of A.R.W. (Ex. #0059);  
11 (2) **lived** with A.R.W. since birth, yet had **never** lived with A.R.W. (Ex. #0059), and  
12 (3) Benshoof "had always insisted that A.R.W. was his" (Ex. #0042) and "acted as  
13 [A.R.W.'s] father for [A.R.W.'s] whole life (Ex. #0041); yet had **never** held out A.R.W.  
14 as his son (Ex. #0059).  
15

16           63. The doctrines of collateral and judicial estoppel precluded Owen making  
17 the foregoing inconsistent material statements of fact under penalty of perjury.

18           64. Owen stated under penalty of perjury that Benshoof was not "already  
19 presumed to be a parent... by **holding out**." (Ex. #0059 ¶8) Owen also perjured  
20 herself by claiming that Benshoof "has, at all times, refused to legal recognition as a  
21 parent of [A.R.W.]." (Ex. #0059 ¶9)  
22

23           **4) Orders Void ab initio**

24           65. Benshoof and Owen were never party to a dissolution of marriage or  
25

1 domestic partnership, legal separation, or declaration of invalidity.

2 66. “In entering a decree of dissolution of marriage or domestic partnership,  
3 legal separation, or declaration of invalidity, the court shall determine the marital or  
4 domestic partnership status of the parties, make provision for a parenting plan for  
5 any minor child of the marriage or domestic partnership” and “make provision for  
6 any necessary continuing restraining orders.” RCW 26.09.050(1)  
7

8 67. A restraining order issued under RCW 26.09.060(1)(a) is limited to “a  
9 proceeding for: [d]issolution of marriage or domestic partnership, legal separation, or  
10 a declaration of invalidity.” *Expressio unius est exclusio arlterius*. “Affirmative words  
11 are often, in their operation, negative of other objects than those affirmed, and, in  
12 this case, a negative or exclusive sense must be given to them or they have no  
13 operation at all.” *Marbury v. Madison*, 5 U.S. 1 Cranch 137, 174 (1803)  
14

15 68. Under the doctrine of *stare decisis* and 28 U.S.C. § 1652, Washington  
16 statutes “shall be regarded as rules of decision in the courts of the United States.”  
17

18 69. Judgments must be dismissed, regardless of timeliness, if jurisdiction is  
19 deficient. *Mitchell v. Kitsap County*, 59 Wash.App. 177, 180-81, 797 P2d 516 (1990)  
20 (collateral challenge to jurisdiction of pro tem judge granting summary judgment  
21 properly raised on appeal) (citing *Allied Fidelity Ins. Co. v. Ruth*, 57 Wash.App. 783,  
22 790, 790 P2d 206 (1990)); *Jaffe and Asher v. Van Brunt*, 158 F.R.D. 278  
23 (S.D.N.Y.1994)  
24



1           70. Keenan did not have jurisdiction to issue the Final Restraining Order,  
2 By acting *ultra vires* Keenan granted void *ab initio* orders.

3           “[I]t is apparent, that the framers of the constitution contemplated that  
4 instrument as a rule for the government of *courts*... Why otherwise does it  
5 direct the judges to take an oath to support it? This oath certainly applies in an  
6 especial manner, to their conduct in their official character. How immoral to  
7 impose it on them, if they were to be used as the instruments, and the knowing  
8 instruments, for violating what they swear to support!  
9 *Marbury v. Madison*, 5 U.S. 137, 179-180 (1803)

10           “[A] law repugnant to the constitution is void; and that courts, as well as other  
11 departments, are bound by that instrument.” (*Id.*, at 180)

12           71. Benshoof had no legal obligation to abide by the terms of Keenan’s  
13 fraudulent and unconstitutional orders, nor could CITY OF SEATTLE allege that  
14 Benshoof could violate a void *ab initio* order.

### 15           **5) Fraud**

16           72. Cliber suborned Owen’s perjury to create the fraudulent pretense of  
17 family court jurisdiction. “There is no question of the general doctrine that fraud  
18 vitiates the most solemn contracts, documents, and even judgments.” *United States*  
19 *v. Throckmorton*, 98 U.S. 61, 64 (1878)

20           73. The extrinsic and collateral fraud included Cliber suborning Owen’s  
21 perjury to falsely assert that family court was statutorily authorized to adjudicate a  
22 petition to decide parentage, with Owen, Cliber, and Keenan “purposely keeping  
23 [Benshoof] in ignorance of the [invalidity]” of the restraining orders. *Burke v.*  
24 *Bladine*, 99 Wash. 383, 394 (1918) “Adopting the language of *Pico v. Cohn*, 91 Cal.  
25 129, 25 Pac. 970, 27 Pac. 537, 13 L.R.A. 336, 25 Am. St. Rep. 159.\*\*\*In all such

1 instances, the unsuccessful party is really prevented, by the fraudulent contrivances  
2 of his adversary, from having a trial[.]”

3 74. The fraud perpetrated by Cliber and Owen render all orders issued by  
4 Keenan in case no. 21-5-00680-6 void.  
5

## 6 **B. Domestic Relations Exception**

7 75. 28 U.S.C. § 1331 mandates the Court exercise federal question  
8 jurisdiction. *Axon v. FTC*, 598 U.S. 175 (2023) (J. GORSUCH concurring at 34-35)

9 76. District court has repeatedly and incorrectly cited *Ankenbrandt v.*  
10 *Richards*, 504 U.S. 689 (1992) to claim “domestic relations exception.” (WAWD No.  
11 2:23-cv-1392, Dkt. #38, pg. 14 ¶1)  
12

13 77. “In *Ankenbrandt v. Richards*, 504 U.S. 689 (1992), this Court reined in  
14 the “domestic relations exception.”” *Marshall v. Marshall*, 547 U.S. 293, 299 (2006)

15 78. Benshoof, A.R.W., and Owen have lived in King County since A.R.W.  
16 was conceived.

17 79. *Ankenbrandt* held that the exception **only** reaches “cases involving the  
18 issuance of a divorce, alimony, or child custody decree.” *Id.*, at 704.  
19

20 80. *Ankenbrandt* held “the Court of Appeals erred by affirming the District  
21 Court’s invocation of the domestic relations exception” in an action which “in no way  
22 seeks a divorce, alimony, or child custody decree.” *Id.*, at 690.  
23  
24  
25

1           81. Plaintiffs' motion does not seek a divorce decree, alimony, nor a child  
2 custody decree; therefore, *Ankenbrandt* cannot substantiate domestic relations  
3 exclusion.

4  
5           82. Similar to Benshoof's complaint, "this lawsuit in no way seeks such a  
6 decree; rather, it alleges that respondents Richards and Kesler committed torts  
7 against L.R. and S.R., Ankenbrandt's children by Richards. Federal subject matter  
8 jurisdiction pursuant to §1332 thus is proper in this case." *Id.*, at 704

9           83. Setting aside the issue of diversity jurisdiction under 28 U.S.C. §1332,  
10 as the instant case is not a diversity case, *Ankenbrandt* affirms federal subject matter  
11 jurisdiction to hear Benshoof's complaint pursuant to 28 U.S.C. §1331.

12  
13           84. Federal courts routinely—and incorrectly—cite *Lehman v. Lycoming Cty.*  
14 *Ch. Svcs. Agcy.*, 458 U.S. 502 (1982) to claim domestic relations exception. *Id.*,  
15 [Footnote 19]

16           85. *Lehman* did not proscribe federal jurisdiction for investigating absence  
17 of family court jurisdiction. *Id.*, [Footnote 19]

18  
19           86. *Lehman* held that 28 U.S.C. § 2254(a) "does not confer jurisdiction on  
20 federal courts to consider collateral challenges to state-court judgments involuntarily  
21 terminating parental rights." *Lehman v. Lycoming County Children's Services*, 458  
22 U.S. 502 (1982)

1        87. Benshoof's parental rights were never terminated, nor was a  
2 termination hearing ever held; therefore, *Lehman* cannot substantiate domestic  
3 relations exception.  
4

### 5 **C. Preclusion Doctrines**

6        88. There is abundant evidence to doubt the quality, extensiveness, and  
7 fairness of proceedings involving Benshoof in Seattle Municipal and King County  
8 courts.

9        89. "Redetermination of issues is warranted if there is reason to doubt the  
10 quality, extensiveness, or fairness of procedures followed in prior litigation." *Montana*  
11 *v. United States*, supra, at 164, n.11, 99 S.Ct., at 979, n.11. Cf. *Gibson v. Berryhill*,  
12 411 U.S. 564, 93 S.Ct. 1689, 36 L.Ed.2d 488 (1973). *Kremer v. Chem. Const. Corp.*,  
13 456 U.S. 461, 480–81 (1982)  
14

15        90. Benshoof has not had a full and fair opportunity in any court addressing  
16 Plaintiffs' present issues.

17        91. We have previously recognized that the judicially created doctrine of  
18 collateral estoppel does not apply when the party against whom the earlier decision  
19 is asserted did not have a "full and fair opportunity" to litigate the claim \*481 or issue,  
20 *Allen v. McCurry*, 449 U.S., at 95, 101 S.Ct., at 415; *Montana v. United States*, 440  
21 U.S. 147, 153, 99 S.Ct. 970, 973, 59 L.Ed.2d 210 (1979); *Blonder-Tongue Laboratories,*  
22 *Inc. v. University of Illinois Foundation*, 402 U.S. 313, 328–329, 91 S.Ct. 1434, 1442–  
23 43, 28 L.Ed.2d 788 (1971). *Kremer* at 480-481.  
24

92. The primary exception to this general rule is that we do not give preclusive effect to judgments rendered in proceedings that fail to comply with the minimum standards of due process. In other words, the party against whom preclusion is urged must have had a “full and fair opportunity” to litigate his claim. See *Kremer*, 456 U.S. at 480–82. *Clements v. Airport Auth. of Washoe Cnty.*, 69 F.3d 321, 328 (9th Cir. 1995) Neither *res judicata* nor collateral estoppel can apply.

## D. Seattle Municipal Court

### 1) *No Personal Jurisdiction*

93. City prosecutors and judges ignore the statutory requirement for obtaining personal jurisdiction under RCW 35.20.270(1), refusing to provide evidence of compliance and legal service when Benshoof objected on the record. (Ex. #0110)

***“Execution of process and the performance of duty by constituted officers must not be thwarted. But these agents, servants of a government and a society whose existence and strength comes from these constitutional safeguards, are serving law when they respect, not override, these guarantees.”***

*Miller v. United States*, 230 F.2d 486, 490 (5th Cir. 1956)

94. “All criminal and civil process issuing out of courts created under this title shall be directed to the chief of police of the City served by the court and/or to the sheriff of the county in which the court is held and/or the warrant officers and be by them executed according to law in any county of this state.” RCW 35.20.270(1)

***A court has an “independent obligation to determine whether subject-matter jurisdiction exists, even when no party challenges it.”***

*Hertz Corp v. Friend*, 559 U.S. 77, 94 (2010)

1           95.     On December 27, 2023, Def. Katrina Outland implicitly admitted the  
2 City's practice and widespread customs of violating 35.20.270(1). (WAWD No. 2:23-  
3 cv-1392-JNW, Dkt. #58-1, pg. 2 #2)

4           96.     Seattle Municipal Court failed to obtain personal jurisdiction to  
5 prosecute Benshoof. (Ex. #0090 ¶5; #0110 ¶¶4-7)

7           **2) No Subject Matter Jurisdiction**

8           97.     Seattle Municipal Court is a court of limited jurisdiction.

9           98.     A protection order violation allegation "must be transferred" to superior  
10 court when a "superior court has exercised jurisdiction over a proceeding involving  
11 the parties." RCW 7.105.010(1)(a)(d). (Ex. #0090 ¶6; #0147 ¶4; #0148 ¶4)

12           99.     "If any tribunal finds absence of proof of jurisdiction over a person and  
13 subject matter, the case must be dismissed." *Louisville R.R. v Motley*, 211 US 149,  
14 29 S. Ct. 42 (1908)

15           100.    Under state law, only King County Superior Court could be authorized  
16 to hear allegations that Benshoof violated an allegedly valid family court restraining  
17 order issued in KCSC case no. 21-5-00680-6.

18           101.    Judge Gregory did not have personal or subject matter jurisdiction to  
19 issue a restraining order, nor issue a warrant. (Ex. #0110-0111)

20           102.    A restraining order issued without jurisdiction is invalid. Benshoof did  
21 not violate a valid restraining order issued by the City.

22           **3) Malicious Prosecutions**

1           103. City did not have personal or subject matter jurisdiction to proceed  
2 against Benshoof in Seattle Municipal Court nos. 669329; 671384; 675317; 675405;  
3 676175; 676207; 676216; 676463; 676492.  
4

5           104. It is a violation of RCW 9.62.010 for City officials to “maliciously and  
6 without probable cause therefor, cause or attempt to cause another to be arrested or  
7 proceeded against for any crime of which [Benshoof] is innocent.”

8           105. City prosecutors and judges are violating RCW 9.62.010 by prosecuting  
9 Benshoof in case nos. 669329; 671384; 675317; 675405; 676175; 676207; 676216;  
10 676463; 676492.  
11

## 12 **E. ORAL & Contempt Order**

13           106. Ferguson issued the *ultra vires* ORAL and Contempt Order without  
14 subject matter jurisdiction pursuant to RCW 26.51.030(1). There was no inquiry nor  
15 finding by any court that Benshoof had ever been found to be a domestic violence  
16 perpetrator, nor did Ferguson have evidence of “domestic relations” between  
17 Benshoof and Owen; therefore, Ferguson and Russ acted to deny Benshoof due  
18 process of law. (Dkt. #1 ¶414)  
19

## 20 **F. Suspension of *Habeas Corpus***

21           107. The Fourteenth Amendment to the U.S. Constitution, §1 states, “No  
22 State shall make or enforce any law which shall abridge the privileges or immunities  
23 of citizens of the United States.”  
24

1        108. Respondents acted as integral participants in violating Plaintiffs’  
2 privileges or immunities as citizens of the United States. *Reynaga Hernandez v.*  
3 *Skinner*, 969 F.3d 930, 941-42 (9th Cir. 2020)  
4

5        109. Article I § 9 Clause 2 of the U.S. Constitution states, “The Privilege of  
6 the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion  
7 or Invasion the public Safety may require it.

8        110. The privilege of habeas relief is one of the privileges “which owe their  
9 existence to the Federal Government, its Nation character, its Constitution, or its  
10 laws.” *Slaughter-Houe Cases*, 83 U.S. (16 Wall.) 36, 78-79 (1873)  
11

12        111. Wash. Const. Art. I §13 states that the “privilege of the writ of habeas  
13 corpus **shall not** be suspended, unless incase of rebellion or invasion the public safety  
14 requires it.” No rebellion or invasion occurred during the matters in controversy.

15        112. RCW 7.36.040 states that “upon application the writ **shall** be granted  
16 without delay.”

17        113. By granting the void *ab initio* ORAL, Ferguson “knew about and  
18 acquiesced in the constitutionally defective conduct as part of a common plan with  
19 those” who would act under color of law to abridge Plaintiffs’ right to habeas relief.  
20 *Peck v. Montoya*, 51 F.4th 877, 891 (9th Cir. 2022)  
21

22        114. By moving for the void *ab initio* ORAL, Russ set in motion a series of  
23 events which Russ knew or reasonably should have known would cause others to act  
24 under color of law to abridge Plaintiffs’ right to habeas relief. (*Id.*)  
25



## G. Due Process Violations

115. The Due Process Clause entitles a person to an impartial and disinterested tribunal. This requirement of neutrality in adjudicative proceedings safeguards the two central concerns of due process: the prevention of unjustified or mistaken deprivations and the promotion of participation and dialogue by affected individuals in the decision-making process. *Carey v. Phipus*, 435 U.S. 247, 259-262, 266-267 (1978)

### 1) Family Court

116. Keenan denied Benshoof entrance to the courtroom and prevented Benshoof from testifying before a jury of his peers. (Ex. #0108)

117. Denying Benshoof entrance to the courtroom violated Wash. Const. art I § 10. Preventing Benshoof from testifying before a jury of his peers violated Wash. Const. art I § 21.

### 2) Ferguson Court

118. Because Benshoof caught Ferguson giving fraudulent *ex parte* legal advice to opposing counsel at the January 27, 2023, and had already named Ferguson as a defendant (WAWD No. 2:23-cv-1392-JNW, Dkt. #9) Ferguson had a direct, personal, substantial, and pecuniary interest in perpetuating the ORAL fraud to silence Benshoof. (Ex. #0187-0191)

119. In *Tumey v. Ohio*, 273 U.S. 510 (1927) “There we held that it deprives a defendant of due process to “subject his liberty or property to the judgment of a court

the judge of which has a direct, personal, substantial, pecuniary interest in reaching a conclusion against him in his case." *Id.*, at 523." *In re Murchison*, 349 U.S. 133, 142 (1955)

120. The foregoing prevented Benshoof "from presenting all of his case to the court." *United States v. Throckmorton*, 98 U.S. 61, 66 (1878)

## H. First Amendment Violations

121. Through the equal protection clause of the Fourteenth Amendment, Defendants were prohibited from violating First Amendment prohibitions against restricting or denying Benshoof's right to the freely exercise of his religious beliefs and speech, his right to associate with A.R.W., and his right to petition for redress.

### 1) *Religious Freedom*

122. Respondents have maliciously retaliated against Benshoof because Benshoof exercised his inalienable rights.

**"The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury."**

*Elrod v. Burns*, 427 U. S. 347, 373 (1976)

123. "[R]eligious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit First Amendment protection," *Fulton v. City of Philadelphia*, 141 S.Ct. at 1876 (quoting *Thomas v. Review Bd. offend. Employment Security Div.*, 450 U.S. 707, 714 (1981))

124. The ORAL, the Contempt Order, and the City's malicious prosecutions were intended to have a chilling effect upon Benshoof exercising his free speech and

1 petitions for redress.

2 **2) Right of Association**

3 125. Ferguson and Russ acted under the fraudulent ORAL to perpetuate the  
4 violation of Plaintiffs' right of association by denying Benshoof leave to petition for  
5 *habeas*.  
6

7 126. Tracy and Turner continue to render criminal to Cliber under the  
8 fraudulent ORAL, rendering criminal assistance to Owen's kidnapping of A.R.W.

9 127. Skelton continues to render criminal assistance to Gregory Narver's  
10 violations of RCW 28A.605.030.  
11

12 128. The City's malicious prosecutions, predicated upon the family court  
13 barratry, fraud, and perjury threaten Benshoof with indefinite imprisonment if  
14 Benshoof has any contact with A.R.W.

15 **"An unconstitutional act is not a law; it confers no rights; it imposes**  
16 **no duties it affords no protection; it creates no office; it is in legal**  
17 **contemplation as inoperative as though it had never been passed."**  
*Norton v. Shelby County*, 118 US 425 (1886)

18 129. Void protection orders issued by King County family court and Seattle  
19 Municipal Court impose no duty upon Benshoof.

20 **I. Eighth Amendment Violations**

21 130. Ferguson, Russ, Tracy, and Turner continue to threaten Benshoof with  
22 nearly a *million dollars per year* in sanctions under the fraudulent ORAL and  
23 Contempt Order, as well as the threat of indefinite, unlawful imprisonment.  
24

1           131. The City has issued over \$300,000 in void ab initio warrants for  
2 Benshoof's arrest.

3           132. Eighth Amendment prohibitions would be meaningless without legal  
4 remedy for its violation: *ubi jus ibi remedium*. Excessive fines and warrants are  
5 ordered by judges acting in their OFFICIAL capacity.  
6

7           “This Constitution, and the Laws of the United States which shall be made in  
8 Pursuance thereof; and all Treaties made, or which shall be made, under the  
9 Authority of the United States, shall be the supreme Law of the Land; and *the*  
Judges in every State shall be bound thereby...” Article VI, Paragraph 2

10          133. Doctrine is subordinate to the U.S. Constitution under the Supremacy  
11 Clause When in conflict with the U.S. Constitution, doctrine must yield. The doctrine  
12 of absolute judicial immunity cannot immunize Ferguson's *ultra vires* acts which are  
13 inflicting cruel punishments upon Benshoof through excessive fines.  
14

## 15 **J. Criminal Law Violations**

### 16 **1) Federal Kidnapping**

17          134. Lerman kidnapped A.R.W. on September 3, 2021, in violation of 18  
18 U.S.C. §1201. 18 U.S.C. §3 prohibits Respondents from assisting Lerman in order to  
19 prevent her apprehension, trial, or punishment, relating to Lerman's kidnapping  
20 A.R.W.  
21

22          135. Through their acts or failures to act, Respondents and City officials have  
23 acted as accessories after-the-fact to the kidnapping of Benshoof's son by Owen and  
24 Lerman by assisting Owen and Lerman to prevent the trial or punishment of Owen  
25 and Lerman.

1           136. The City's fraudulent warrants prevent Benshoof from communicating  
2 to federal law enforcement regarding Lerman's violation of 18 U.S.C. §1201.

3           137. Using intimidation or threats, or engaging in misleading conduct  
4 towards Benshoof, with intent to hinder, delay, or prevent Benshoof communicating  
5 to a law enforcement officer of information relating to federal offense is a violation of  
6 18 U.S.C. §1512(b)(3).

7  
8           **2) State Kidnapping**

9           138. Owen, by and through her friend Owen Hermsen under her power-of-  
10 attorney, attempted to extort Benshoof for \$19,000 in exchange for allowing Benshoof  
11 eight days per month with A.R.W. and the return of Benshoof's car. (Ex. #173-176;  
12 Ex. #0078 ¶¶37-38)

13  
14           139. Owen and Lerman kidnapped A.R.W. to facilitate the commission of  
15 Owen's perjury in her petition to decide parentage by preventing A.R.W. from  
16 controverting Owen's perjury.

17           140. Owen and Lerman kidnapped A.R.W. to inflict extreme emotional  
18 distress on Benshoof due to their hatred of Benshoof and his beliefs. (Ex. #0079 ¶¶45-  
19 46)

20  
21           141. RCW 9A.40.020(1)(a)(d) prohibited Owen and Lerman from  
22 intentionally abducting A.R.W. to: (1) use A.R.W. for ransom or reward; (2) facilitate  
23 Owen's felony perjury; (3) inflict extreme emotional distress on Benshoof.

1           **3) Rendering Criminal Assistance**

2           142. By acting to deny Benshoof's privilege of habeas, Ferguson and Russ  
3 continue to act as accessories after-the-fact to the kidnapping of A.R.W.

4           143. City officials continue to act as accessories after-the-fact to the  
5 kidnapping of A.R.W.

6           144. The City's malicious prosecutions and fraudulent warrants are  
7 preventing or obstructing Benshoof and law enforcement from acting to aid in the  
8 apprehension of Owen and Lerman for kidnapping A.R.W.

9           145. Respondents' acts, or failures to act, are lending criminal assistance to  
10 Owen's and Lerman's kidnapping of A.R.W., in violation of RCW 9A.76.070, a class B  
11 felony.  
12  
13

14                           **MOTION FOR PRELIMINARY INJUNCTION**

15                           Fed.R.Civ.P. 65(b)

16  
17           146. Benshoof realleges and incorporates by reference the preceding  
18 paragraphs and cited documents in the record.

19           147. Benshoof has notified Respondents and their counsel by email and  
20 phone. When "notice of a motion for a temporary restraining order is given to the  
21 adverse party, the same legal standard as a motion for a preliminary injunction  
22 applies." *Fang v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, No. 16-cv-06071, 2016  
23 WL 9275454, at \*1 (N.D. Cal. Nov. 10, 2016), *aff'd*, 694 F. App'x 561 (9th Cir. 2017)  
24

## I. Benshoof Will Eventually Prevail on the Merits

### A. Prima Facia Case

148. The court must treat the complaint's factual matter as true and construe Benshoof's complaint in the light most favorable to Benshoof "even if doubtful in fact." See *Erickson vs. Pardus*, 551 U.S. 89 (2007); *Scheuer vs. Rhodes*, 416 U.S. 232, 236 (1974). To establish a prima facie case under 42 U.S.C. § 1983, plaintiffs must allege two elements: (1) the action occurred "under color of law" and (2) the action is a deprivation of a constitutional right or a federal statutory right. *Parratt vs. Taylor*, 451 U.S. 527, 535 (1981), *Gomez vs. Toledo*, 446 U.S. 635, 640 (1980); 22 see also, e.g., *Groman vs. Township of Manalapan*, 47 F.3d 628, 633 (3rd Cir. 1995))

### B. Legal Right

#### *Supremacy Clause*

149. "This Constitution, and the laws of the United States which shall be made in pursuance thereof," take precedence over the City's fraudulent assertions of jurisdiction, and the "***judges in every state shall be bound thereby.***" United States Constitution, Article VI, Paragraph 2.

150. Respondents cannot prevail. They cannot disprove that the family court restraining orders were fraudulent and void *ab initio*. Respondents cannot disprove that the restraining order issued by Gregory and Ferguson's ORAL and Contempt Order were issued without jurisdiction, and void *ab initio*. Therefore, the fraudulent orders: (1) violated the First Amendment by denying Benshoof's right to associate

1 with A.R.W.; (2) violated the First Amendment by abridging Benshoof's right to  
 2 petition for redress; (3) violated the First Amendment by retaliating against Benshoof  
 3 for his religious beliefs; and (4) were not justified by "interests of the highest order"—  
 4 a so called, "compelling" interest—and that the malicious prosecutions of Benshoof  
 5 were "narrowly tailored" to achieve those interests. *See Fulton v. CITY of Phila.*, 141  
 6 S. Ct. at 1881; *Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S.  
 7 418, 429-30 (2006) (government bears the burden to satisfy strict scrutiny even at the  
 8 preliminary injunction phase).

### 9 **C. Equitable Right – 42 U.S.C. § 1983**

10  
 11  
 12 151. An Act of Congress, 42 U.S.C. § 1983, expressly authorizes a "suit in  
 13 equity" to redress "the deprivation," under color of state law, "of any rights, privileges,  
 14 or immunities secured by the Constitution. . . ." *Mitchum v. Foster*, 407 U.S. 225, 226  
 15 (1972).

16  
 17 152. Applying *Ex parte Young* requires a "straightforward inquiry into  
 18 whether the complaint alleges an ongoing violation of federal law and seeks relief  
 19 properly characterized as prospective." *Puerto Rico Aqueduct Sewer Auth. V Metcalf*  
 20 *Eddy*, 506 U.S. 139 (1993)

21 "The various authorities we have referred to furnish ample justification for the  
 22 assertion that individuals who, as officers of the State, are clothed with some  
 23 duty in regard to the enforcement of the laws of the State, and who threaten  
 24 and are about to commence proceedings, either of a civil or criminal nature, to  
 25 enforce against parties affected an unconstitutional act, violating the Federal  
 26 Constitution, may be enjoined by a Federal court of equity from such action."  
*Ex parte Young*, 209 U.S. at 156



1           153. The City insists that Benshoof must submit himself to unlawful  
 2 imprisonment pursuant to \$310,000 in warrants, yet knows that Benshoof is  
 3 indigent.  
 4

5           Here, the appellants claimed a violation of their constitutional rights under 42  
 6 U.S.C. § 1983, and invoked federal jurisdiction under 28 U.S.C. § 1343(3).  
 7 In *Mitchum v. Foster*, without dissent, the Supreme Court held that § 1983 is  
 8 an expressly authorized exception to the general statutory bar to injunctions  
 9 against state court proceedings.

10           As the Supreme Court stated in *England v. Board of Medical*  
 11 *Examiners*, "There are fundamental objections to any conclusion that a litigant  
 12 who has properly invoked the jurisdiction of a Federal District Court to consider  
 13 federal constitutional claim can be compelled without his consent and through  
 14 no fault of his own, to accept instead a state court's determination of those  
 15 claims."

16           *New Jersey Ed. Ass'n v. Burke*, 579 F.2d 764, 771 (3d Cir. 1978)

#### 17 **D. Younger Exceptions**

18           154. In *Younger v. Harris*, 401 U.S. 37 (1971), Harris challenged the  
 19 constitutionality of a California state law. At no time has Benshoof challenged the  
 20 constitutionality of a municipal code, let alone a Washington state law. On the  
 21 contrary, Benshoof set forth that 28 U.S.C. §1652 mandates that Revised Code of  
 22 Washington "shall be regarded as rules of decision in civil actions in the courts of the  
 23 United States." If the Court orders Respondents to stop violating state statutes,  
 24 Plaintiffs' claims would be quickly resolved.

##### 25 **1) Bad Faith & Harassment**

26           155. The ORAL, the Contempt Order, and the City's malicious prosecutions,  
 27 serve no legitimate purpose; therefore, the Respondents' only intent is to threaten

1 and intimidate Benshoof's exercise of his religious beliefs, petitions for redress,  
 2 father-son association, and speech.

3 156. "[A]bstention doctrine is inappropriate for cases such as the present one,  
 4 where...statutes are justifiably attacked on their face as abridging free expression, or  
 5 as applied for the purpose of discouraging protected activities." *Dombrowski v.*  
 6 *Pfister*, 380 U. S. 479, at 490 (1965)  
 7

## 8 **2) Unconstitutional Enforcement**

9 157. In *Younger*, Appellee Harris challenged the constitutionality of a state  
 10 statute, an incredibly high bar. Herein, Benshoof has proven that City officials are  
 11 committing crimes under color of law via fraudulent restraining orders.  
 12

13 158. The ongoing prejudicial retaliation shocks the conscience. Ferguson  
 14 ordering nearly \$100,000 in sanctions and the City's malicious prosecutions,  
 15 involving more than one hundred charges and \$310,000 in arrest warrants,  
 16 undeniably constitute extraordinary circumstances.

17 "[T]he threat to the plaintiff's federally protected rights must be one that  
 18 cannot be eliminated by his defense against a *single criminal prosecution*. See,  
 19 e.g., *Ex parte Young*, supra, 209 U.S. at 145—147"  
*Younger v. Harris*, 401 U.S. 37, 46 (1971)

20 159. No fair-minded person of ordinary prudence can claim that Benshoof is  
 21 not suffering from extraordinary circumstances, nor that Benshoof will not suffer  
 22 continued impairment of his freedoms if the Court does not enjoin Respondents.  
 23

24 "But the allegations in this complaint depict a situation in which defense of  
 25 the State's criminal prosecution will not assure adequate vindication of  
 constitutional rights. They suggest that a *substantial loss of or impairment of*

1 *freedoms of expression will occur if appellants must await the state court's*  
 2 *disposition and ultimate review in this Court of any adverse determination.*  
 3 *These allegations, if true, clearly show irreparable injury.'*  
*Younger v. Harris*, 401 U.S. 37, 48–49 (1971)

### 4 **3) No Adequate Remedy**

5 160. Benshoof cannot raise **any** defense in Seattle Municipal Court, let alone  
 6 constitutional or jurisdictional objections.

7  
 8 161. Seattle Municipal Court presents Benshoof a Faustian bargain: to be  
 9 afforded his Fourteenth Amendment right to due process, and to prevent the City  
 10 from violating Wash. Const. Art. I §22, Benshoof must first give up his liberty by  
 11 subjecting himself to unlawful imprisonment.

12 162. Justice GINSBURG delivered the opinion addressing the application of  
 13 *Younger* abstention in *Sprint Commc'ns, Inc. v. Jacobs*, 571 U.S. 69 (2013).

14 ***Abstention was in order, we explained, under “the basic doctrine of*  
 15 *equity jurisprudence that courts of equity should not act ... to restrain*  
 16 *a criminal prosecution, when the moving party has an adequate*  
 17 *remedy at law and will not suffer irreparably injury if denied equitable*  
*relief.”* *Id.*, 77.**

### 18 **4) Required Elements Absent**

19 163. “Circumstances fitting within the *Younger* doctrine, we have stressed,  
 20 are “exceptional”; they include, as catalogued in *NOPSI*, “state criminal  
 21 prosecutions,” “civil enforcement proceedings,” and “civil proceedings involving  
 22 certain orders that are uniquely in furtherance of the state courts’ ability to perform  
 23 their judicial functions.” *Sprint.*, at 73

1 164. None of the exceptional circumstances exist. There was no valid family  
 2 court enforcement proceeding. There is no valid prosecution in municipal court.  
 3 There aren't valid orders that are uniquely in furtherance of state court function. The  
 4 fourth required element, a "*Younger-based reason* to abstain" is absent. *Amerisource*  
 5 *Bergen Corp. v. Roden*, 495 F.3d 1143, 1149 (9th Cir. 2007)

7 165. The abstention doctrine is properly applied only when *each* of the  
 8 elements of the doctrine's requirements is satisfied. "[A]bstaining under *Younger* [i]s  
 9 proper *only* if all four *Younger* requirements [a]re strictly satisfied." *Id.*

10 166. "[I]t is readily apparent that abstention serves no legitimate purpose  
 11 where a statute regulating speech is properly attacked on its face, and where, as here,  
 12 the conduct charged in the indictments is not within the reach of an acceptable  
 13 limiting construction readily to be anticipated as the result of a single criminal  
 14 prosecution and is not the sort of "hard-core" conduct that would obviously be  
 15 prohibited under any construction. *Dombrowski v. Pfister*, 380 U. S. 479, 492 (1965

17 "We conclude that on the allegations of the complaint, if true, abstention and  
 18 the denial of injunctive relief may well result in the denial of any effective  
 19 safeguards against the loss of protected freedoms of expression, and cannot be  
 20 justified."

*Dombrowski v. Pfister*, 380 U. S. 479 (1965)

## 21 **II. Plaintiffs Will Suffer Irreparable Injury Unless Injunction** 22 **Issues**

23 167. In *Younger*, Appellees Dan, Hirsch, and Broslawsky were not indicted,  
 24 arrested, nor threatened with prosecution; therefore, *their* fears were merely

1 speculative, contradistinguished from Appellee Harris.

2 “Federal courts will not enjoin pending state criminal prosecutions except  
3 under extraordinary circumstances where the danger of irreparable loss is both  
4 great and immediate in that (*unlike the situation affecting Harris*) there is a  
5 threat to the plaintiff’s federally protected rights that cannot be eliminated by  
6 his defense against a single prosecution.  
7 *Younger v. Harris*, 401 U.S. 37 (1971).

8 168. Respondents have subjected Benshoof to unprecedented retaliation for  
9 over two years for his truth telling and for trying to father his son.

10 ***The loss of First Amendment freedoms, for even minimal periods of time,***  
11 ***unquestionably constitutes irreparable injury.***

12 *New York Times Co. 374\*374 v. United States*, 403 U. S. 713 (1971); *Elrod v.*  
13 *Burns*, 427 U.S. 347 (1976)

14 169. As a direct and proximate result Ferguson’s sanctions and the City’s  
15 warrants, Benshoof has been unable to see his son, hold church, work, drive, travel,  
16 enter courthouses, and denied the ability to report numerous felony crimes to the  
17 SPD. Police refuse to take Benshoof’s complaints over the phone or in writing,  
18 presenting another Faustian bargain: to obtain equal protection under the law as a  
19 reporting victim of felony crimes, Benshoof must first give up his liberty by subjecting  
20 himself to unlawful imprisonment.

### 21 **III. Injury to Plaintiffs Outweighs Risk to Respondents**

22 170. Respondents have acted in parallel to unlawfully imprison Benshoof  
23 under color of law. While Benshoof is not currently behind bars, Respondents are  
24 restricting Benshoof’s exercise of his rights through intimidation and deception in a

1 manner which interferes substantially with his liberty. RCW 9A.40.010(6),  
2 9A.40.040.

3 171. Enjoining Owen and Lerman from continuing to perpetrate kidnapping  
4 of A.R.W. presents no risk to Respondents, except for the normal risk of prosecution  
5 and imprisonment incurred by those who commit class A felonies.  
6

7 172. Grave and immediate injury to Plaintiffs has been ongoing for over two  
8 years and will continue unless an injunction issues.

#### 9 **IV. Injunction Not Adverse to Public Interest**

10 173. Potential harm to Ferguson, Whitehead, City officials and the public  
11 interest merge.  
12

13 “Next, we turn to whether the balance of the equities warrants an injunction  
14 and whether such relief is in the public interest. Where the government is the  
15 opposing party, harm to the opposing party and the public interest “merge.”  
16 *Niken v Holder*, 556 U.S. 418, 435 (2009)

17 174. Enjoining the Respondents from violating RCW 9.62.010 and other  
18 crimes presents no risk to King County or the City.

19 175. It’s an irrelevant straw man for Respondents to claim: (1) this injunction  
20 implicates state interests because the ORAL and Contempt Order were granted by  
21 Ferguson; or (2) this injunction implicates “local interests because the charges  
22 concern the City’s ability to enforce” restraining orders to protect Owen and A.R.W.  
23 Lending criminal assistance and acting as accessories after-the-fact to Owen’s  
24 perjury, fraud, and kidnapping does not “implicate state interests.”

1           176. Rather, the public interest requires the Court to enforce the rights of the  
2 actual victims—Benshoof and A.R.W. and to prevent Respondents from committing  
3 criminal law violations to perpetuate the kidnapping of A.R.W.  
4

5           177. No public interest exists in allowing continued discrimination against  
6 Benshoof, nor violations of RCW 9.62.010; 9A.40.020; 9A.40.040; 18 U.S.C. §§ 241;  
7 242; 1201; 1512. To do so would legitimize criminal conduct.

8           178. The public interest is best served by enjoining Respondents from  
9 perpetrating further constitutional and statutory violations, lest the public's trust in  
10 our government be irreparably harmed.  
11

## 12                                   V. CONCLUSION

13           Kurt Benshoof moves the Court to enter an Order granting injunctive relief to  
14 Benshoof, enjoining Respondents from continuing to render criminal assistance to the  
15 ongoing kidnapping of A.R.W., to enjoin Ferguson from sanctioning or imprisoning  
16 Benshoof under color of law of the ORAL or Contempt Order, to enjoin Ferguson from  
17 denying Benshoof the privilege of *habeas corpus*, to enjoin Jessica Owen's kidnapping  
18 of A.R.W., and to enjoin CITY OF SEATTLE employees, officers, agents, servants,  
19 and attorneys, from acting to detain, arrest, imprison, or prosecute Benshoof relating  
20 to Seattle Municipal Court Nos. 669329; 671384; 675317; 675405; 676175; 676207;  
21 676216; 676463; 676492; or King County Superior Court case no. 21-5-00680-6,  
22 pursuant to FRCP 65(d)(2)(A)(B).  
23  
24

**VERIFICATION**

I, Kurt Benshoof, do hereby declare that the foregoing is true and correct to the best of my knowledge under penalty of perjury in the State of Washington. Executed this 24<sup>th</sup> day of June in the year 2024, in the city of Seattle, in the county of King, in the state of Washington.

I certify this petition contains 8,396 words in compliance with LCR 7(e)(3)

By:

A handwritten signature in blue ink, appearing to read "Kurt A. Benshoof", is written over a horizontal line.

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## CERTIFICATE OF NOTICE

Plaintiff Kurt Benshoof hereby certifies that he gave advance notice of the foregoing motion, by email on June 24, 2024, to the following addresses:

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Plaintiff Kurt Benshoof hereby certifies that the following individuals received  
notice of the foregoing motion via e-file (WAWD No. 2:23-cv-1392-JNW, Dkt. #242-2)  
on June 24, 2024,

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DATED: June 24, 2024

Signed: s/ Kurt Benshoof  
Kurt Benshoof, Plaintiff *Pro Se*